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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,199	05/31/2001	James M. Kain	20341-67618	9889

7590 02/16/2006
Richard A. Rezek
Barnes & Thornburg
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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/871,199	Applicant(s) KAIN, JAMES M.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-9 and 11-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-24 is/are allowed.
- 6) ☒ Claim(s) 4-9, 11-14 and 25-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the Pre-Appeal Brief Request filed 17 January 2006. The Final Rejection mailed 17 October 2005 has been withdrawn in view of the new prior art of record.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11, 12, and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,316,373 to Markel.

Markel discloses a seat assembly that includes all the limitations recited in claims 11, 12, and 27-29. Markel shows a seat assembly having a seat 8 (see Fig. 1) with a seat bottom and a seat back, a cantilevered armrest 10 projecting from the seat back, an arm 12 of the armrest with a free end, a top surface, a support mount 14 appended to the arm and coupled to the seat back to support the arm in a cantilevered position, a first fastener 26 (see Fig. 4) coupled to the support mount and seat back to maintain the arm in the cantilevered position, a second fastener 26 coupled to the support mount and seat back and arranged to lie between the armrest and the seat bottom, a flange 18,20,22 (see Fig. 7) formed to include upper and lower wings extending above and

below the arm and coupled to the fasteners, and a ridge 16 of the seat back positioned to lie adjacent to the upper wing wherein the first fastener is arranged to lie above the top surface of the arm to cause the arm to lie between the first fastener and the seat bottom when the arm is in the cantilevered position, and the first fastener is coupled to apertures (Fig. 7) in the upper wing of the support mount and apertures in the ridge of the seat back to maintain the arm in the cantilevered position.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-9, 11, 12, 25, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,478,372 B1 to Lemmeyer et al. in view of U.S. Design Patent No. 254,889 to Marrujo.

Lemmeyer et al. disclose a seat assembly that is basically the same as that recited in claims 6-9, 11, 12, 25, and 27-29 except that the support mount lacks upper wings, as recited in the claims. See Figures 1-7 of Lemmeyer et al. for the teaching that the seat assembly has a seat 10 (Fig. 2) with a seat bottom 14 (Fig. 2) and seat back 12 (Fig. 2), a cantilevered armrest 16 (Fig. 2) projecting from the seat back, an arm (Fig. 1B) with a free end 21 (Fig. 1B) included in the cantilevered armrest, a top surface 104 (Fig. 1B) of the arm adapted to support a forearm of an occupant, a lower edge 106

(Fig. 1B) of the arm spaced below the top surface, a support mount 19 (Fig. 1B) appended to the arm and coupled to the seat back wherein the support mount has inner and outer flanges (Fig. 1B) positioned to lie in spaced-apart relation to receive a ridge of the seat back in a U-shaped channel 101 (Fig. 1B) formed in the support mount between the inner and outer flanges, fastener apertures 120,122 (Figs. 1A-1B) formed in the inner and outer flanges and the ridge of the seat back, a first fastener (column 6, lines 6-12) coupled to the apertures in the support mount and seat back to maintain the arm in the cantilevered position, and a second fastener (column 6, lines 6-12) coupled to the apertures in the support mount and seat back and arranged to lie between the first fastener and the seat bottom. Marrujo shows a support mount similar to that of Lemmeyer et al. wherein the support mount (Fig. 1) is attached to an arm and includes an inner flange, an outer flange positioned to lie in spaced-apart relation to the inner flange forming a U-shaped channel, and each flange formed to include an upper wing rising above the arm and having a fastener aperture and formed to include a lower wing extending below the arm with a second fastener aperture. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat assembly of Lemmeyer et al. such that the each flange of the support mount is formed to include upper wings rising above the top surface of the arm and away from the seat bottom, the upper wings include a fastener apertures for the first fastener such that the first fastener is arranged to lie above the top surface of the arm, each flange includes lower wings extending below the arm such that the second fastener is coupled to the lower wing, such as the support mounted disclosed in

Marrujo. Applicants have not disclosed that having the upper and lower wings on the flanges solves any stated problem or is for any particular purpose. Accordingly, the use of the upper and lower wings on the flanges is deemed to be merely a design consideration which fails to patentably distinguish over the prior art. In the alternative, it would have been additionally obvious to one of ordinary skill in the art to make such a modification since it is known that a wider support mount would provide greater support.

5. Claims 13, 14, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Marrujo as applied to claims 6-9, 11, 12, 25, and 27-29 above, and further in view of U.S. Patent No. 207,764 to Mitchell.

Lemmeyer et al., as modified, disclose a seat assembly that is basically the same as that recited in claims 13, 14, and 26 except that the armrest lacks a load support panel, as recited in the claims. Mitchell shows a seat assembly similar to that of Lemmeyer et al. wherein the seat assembly has a seat (see Fig. 2) including a seat bottom and back G,E, a cantilevered armrest J projecting from the seat back and including an arm with a free end, a top surface and a support mount appended to the arm and coupled to the seat back to support the arm in a cantilevered position, an outer flange of the support mount coupled to the arm and arranged to receive a ridge of the seat back, and a generally flat load support panel (see column 2, lines 34-37) fixed to the cantilevered armrest to lie in a fixed position relative to the arm and the support mount and to engage the ridge of the seat back via a lower edge. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat assembly of Lemmeyer et al. such that the armrest

Art Unit: 3636

includes a load support panel fixed to the cantilevered armrest to lie in a fixed position relative to the arm and the support mount and to engage the ridge of the seat back to block pivotable movement of the cantilevered armrest toward the seat bottom about a pivot axis established by the first fastener, and a lower edge of the load support panel engaging the ridge of the seat back and lying in a position between the inner and outer flanges of the support mount, such as the seat assembly disclosed in Mitchell. One would have been motivated to make such a modification in view of the suggestion in Mitchell that the lower support panel provides compensation for any weakness resulting from the ridge being thinner than the seat back.

6. Claims 4 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Marrujo as applied to claims 6-9, 11, 12, 25, and 27-29, and further in view of U.S. Patent No. 4,274,674 to Deloustal.

Lemmeyer et al., as modified, disclose a seat assembly that is basically the same as that recited in claims 4 and 31 except that the fastener lengths are not specified, as recited in the claims. Deloustal discloses a seat assembly similar to that of Lemmeyer et al. wherein the seat assembly has a seat bottom 1 (see Fig. 1), a seat back 2, a support mount 4, inner and outer flanges 4a (see Fig. 3), a first fastener at axis 3 with a first length, a second fastener 12 with a second length longer than the first length, and a tab 20,21. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat assembly of Lemmeyer et al. such that the second fastener has a second length longer than the first length of the first fastener, such as the seat assembly disclosed in Deloustal. One would have been

motivated to make such a modification in view of the suggestion in Deloustal that the longer second fastener provides connection to a tab for attaching the seat assembly to the seat belt apparatus of a vehicle seat.

7. Claims 5 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Marujo as applied to claims 6-9, 11, 12, 25, and 27-29, and further in view of U.S. Patent No 5,297,851 to Van Hekken.

Lemmeyer et al., as modified, disclose a seat assembly that is basically the same as that recited in claims 5 and 30 except that the fasteners lacks a barrel and screw, as recited in the claims. See column 6, lines 6-12 of Lemmeyer et al. for the teaching that the armrest include fasteners that are rivets, bolts, or other conventional fasteners. Van Hekken shows a seat assembly similar to that of Lemmeyer et al. wherein each fastener (Fig. 4) includes a barrel 50 (Fig. 4) with a first end and an opposite threaded open end, an enlarged head (Fig. 4) coupled to the first end, and a screw 32 (Fig. 4) threaded to fit in and mate with the threaded open end of the barrel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat assembly of Lemmeyer et al. for that teaching that each fastener includes a barrel with a first end and an opposite threaded open end, an enlarged head coupled to the first end, and a screw threaded to fit in and mate with the threaded open end of the barrel to couple the support mount to the seat back, such as the seat assembly disclosed in Van Hekken. One would have been motivated to make such a modification in view of the suggestion in Van Hekken that the threaded barrel and screw

configuration of each fastener allow for easy attachment of plastic seat parts while lessening the instance of stress fractures in the plastic.

Allowable Subject Matter

8. Claims 15-24 are allowed.

Response to Arguments

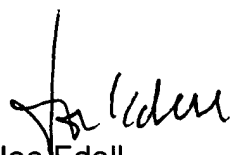
9. Applicant's arguments filed 17 January 2006 have been fully considered but they are not persuasive. Applicant argues that Markel fails to teach an arm appended to the support mount. *Merriam-Webster's Collegiate Dictionary, Tenth Edition* defines append as attach, affix. Examiner reasonably interprets appended as attached. While the arm of Markel may be rotated to a removable position, the normal usage of the arm of the seat assembly is to be attached to the support mount. Therefore, Markel teaches all the limitations recited in claims 11 and 12. Applicant's arguments with respect to combination of Lemmeyer et al. in view of Rowland, Mitchell, and Herpel have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell
February 13, 2006